

Walton v. Nashua Corporation, #ES-1373-344-203, EEOC #TBO6-1858

At Public Hearing, 10 March 1978 *closed 5/26/78*

Sitting Commissioners: Walter E. Gibbs, Gail F. Paine, and
Romeo J. Rejimbál

Complainant Denise Walton was hired by the respondent company, Nashua Corporation, as a sales correspondent July 11, 1974, with a starting salary of \$8,500 per year. Her background includes a history of secondary school education and residency in an Hispanic atmosphere (Puerto Rico), a B.A. from Western Washington State College with majors in social anthropology, personnel management/industrial relations. Complainant graduated with honors and had additional training in statistics and computer science. Her employment background included positions as a part-time receptionist in Puerto Rico, an administrative assistant to the director of an employment agency in Boston, Massachusetts, and an employment counselor with the Concentrated Employment Program, Bedford, Massachusetts.

Complainant stated on employment questionnaire her preferences for types of work were, (1) sales administration, (2) marketing, and (3) personnel. Subsequent to hire, complainant's employee appraisals for the first nine months of employment indicated work improvement but six months later appraisal included an admonition that complainant had to develop skills in her present line of employment before advancing. On January 5, 1976, complainant received a salary increase to \$9,180 per year and on May 3, 1976, a second increase, raising her salary to \$10,000 per year.

Walton charges Nashua Corporation with violation of NHRS354-A:8, I, in that she did not receive equal pay to similarly situated males performing essentially the same duties, in particular one Robert Maloney. Maloney was hired as a sales correspondent by Nashua Corporation on September 16, 1974, at a starting salary of \$10,000 per year (\$1,500 higher than Walton's). Subsequent increases brought his salary to \$11,800 per year by May 3, 1976. Among his qualifications are included a B. S. in International Trade from the School of Foreign Service, Georgetown University; Dean's list senior year. He was employed by E. B. McAlpine Refiners, Providence, Rhode Island, as a warehouse organizer and as a consultant for a research project relating to export potential of electronics products in College Park, Maryland. Maloney had fluency in French.

The department that both Maloney and Walton were employed in at the Nashua Corporation dealt with international sales.

Although foreign language proficiency was required, no major issue was made of either Maloney or Walton's language abilities, but employee appraisals made by immediate supervisors indicate a higher level of skills and motivation on the part of Maloney.

New Hampshire Equal Pay Law RS-275.37 states:

"No employer shall discriminate in the payment of wages as between the sexes, or shall pay any female in his employ salary or wage rates less than the rates paid to male employees for equal work or work on the same operations. However, nothing in this subdivision shall prohibit a variation in rates of pay based upon a difference in seniority, experience, training, skill, ability ---"

The Commission does not find this law incompatible with its own statute requiring non discrimination "-- in compensation or terms, conditions or privileges of employment unless based on a bona fide occupational qualification. "

It is the Commission's opinion that if compensation is made within the parameters of a particular job (e. g. , a position paying from \$8,000 per year to \$12,000 per year) and one individual enters the position at the lowest level and a second is hired at a medium or higher level of pay that it is well within the discretionary powers of the employer, unless it can be proved there is a pretextual impact on protected classes, e. g. , all females entering at the lowest grade as opposed to a substantial majority of males entering at higher levels. No proof of such a situation has been offered in the instant case.

The Commission cannot place itself in the position of denying an employer the opportunity to competitively bid in terms of salary for individuals it feels are both qualified and highly desirable.

Therefore, the Commission Finds No Cause to justify the complaint and this concludes the Commission's actions in this matter, and it is returning jurisdiction to the United States Equal Employment Opportunity Commission, Docket #TBO6-1858.

So Ordered.

May 26, 1978
Date

Gail F. Paine
Gail F. Paine, Commissioner

5/26/78
Date

Walter E. Gibbs
Walter E. Gibbs, Commissioner

5/26/78
Date

Romeo J. Refinbal
Romeo J. Refinbal, Commissioner